

United States District Court
Eastern District of California

James H. Fisher,

Plaintiff,

vs.

N. Dizon, et al.,

Defendants.

No. Civ. S 05-0540 MCE PAN P

Findings and Recommendations

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Plaintiff is a state prisoner prosecuting this civil rights action without counsel.

July 15, 2005, the court dismissed plaintiff's claims against defendants Cameron, A. Crawford, Walker, Austria, Brida, Cruz and Wann pursuant to 28 U.S.C. § 1915A, with leave to amend. The court informed plaintiff he could proceed against defendants N. Dizon, M. Powers, J. Anunciation, J. Barrientos, F. Mendoza, G. Rosales, S. Swain, Yarber, Sumner, Newsom, Cry, R. St. Germain, Grannis, Pearson and Teresa Schwartz by submitting

1 materials for service within 15 days, but the court would
2 construe his election so to proceed as consent to dismissal of
3 his claims against defendants Cameron, A. Crawford, Walker,
4 Austria, Brida, Cruz and Wann without leave to amend.

5 August 1, 2005, plaintiff submitted materials for service of
6 defendants N. Dizon, M. Powers, J. Anunciation, J. Barrientos,
7 F. Mendoza, G. Rosales, S. Swain, Yarber, Sumner, Newsom, Cry, R.
8 St. Germain, Grannis, Pearson and Teresa Schwartz. I find
9 plaintiff has consented to dismissal of claims against defendants
10 Cameron, A. Crawford, Walker, Austria, Brida, Cruz and Wann
11 without leave to amend.

12 Accordingly, the court hereby recommends that claims against
13 defendants Cameron, A. Crawford, Walker, Austria, Brida, Cruz and
14 Wann be dismissed without prejudice.

15 Pursuant to the provisions of 28 U.S.C. § 636(b)(1), these
16 findings and recommendations are submitted to the United States
17 District Judge assigned to this case. Written objections may be
18 filed within 20 days of service of these findings and
19 recommendations. The document should be captioned "Objections to
20 Magistrate Judge's Findings and Recommendations." The district
21 judge may accept, reject, or modify these findings and
22 recommendations in whole or in part.

23 Dated: August 4, 2005.

24 /s/ Peter A. Nowinski
25 PETER A. NOWINSKI
26 Magistrate Judge